

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

Latasha Holloway, *et al.*,

Plaintiffs,

v.

City of Virginia Beach, *et al.*,

Defendants

Civil Action No. 2:18-cv-0069

**PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

PLAINTIFFS' EXHIBIT 14

Virginia Beach Dept. of Police EEO Plan (DEF 11933-11943)

**City of Virginia Beach
Department of Police**

Equal Employment Opportunity, Diversity & Inclusion Plan

January 1, 2010 – December 31, 2014



Approved by: _____
James A. Cervera

Date: _____

Prepared by: _____
Miriam K. Bryant

Date: _____

A Message From Our Chief...

As an agency, we know that we are making a difference today and we will continue to make a difference in the future. We understand that we must try to do better.

The foundation of our police department is based on our character and values – honesty, courage, dignity, respect, accountability, and professionalism. Our center of gravity, the strength of our organization, is our ability to strive to achieve while maintaining a capacity to care.

We exist for our community and we know that with public support nothing can fail and without it, nothing will succeed. We will continue to reach out to all members of our city to build a sense of community and to rely on the strength of the community.

To me, an EEO, Diversity and Inclusion Plan is a formal commitment and pledge to continuously work toward the ideals that sustain us as both an organization and a community. Hopefully our commitment is strongly evident in the following pages.

Table of Contents

Introduction	3-5
Mission and Overview	3-4
Division Descriptions	4-5
 Commitment to Race, National Origin and Gender	 5-16
Race and National Origin Categories	5-6
EEO Job Categories	6-7
Relevant Labor Market	7-8
Current Reality: Chart Analysis	8-11
2009 Recruitment and Selection Results	11-14
2009 Turnover Results	15-16
 Commitment to EEO, Diversity and Inclusion	 17-23
Commitment and Engagement	17-18
Awareness	18
Fairness and Equity	18-19
Partnerships	19-20
 Accomplishments/Best Practices	 20-22
 Future Strategies/Initiatives	 22-23
 Dissemination of Plan	 23
 Appendices	
Appendix A, Police Department Organizational Chart	
Appendix B, Job Classification Listing	
Appendix C, Workforce by Budget Unit	
Appendix D, Workforce Utilization Analysis	
Appendix E, 2009 Annual Analysis of the Police Recruiting Program	
Appendix F, Civilian Selection 2009 and 2010	
Appendix G, VBPD Attrition Trends FY09/10	
Appendix H, 2009/2010 Lesson Plans for Cultural Diversity/EEO In-Service Training	

Introduction

Police Department Mission Statement:

The Virginia Beach Police Department is committed to providing a safe community and improving the quality of life for all people. We accomplish this by delivering quality police services and enforcing laws with equity and impartiality. In partnership with the community, we reduce crime through public education, prevention and awareness. In meeting this objective, we demand of ourselves the highest professional standards and dedication to our core values.

It is the policy of the City of Virginia Beach to follow the principles of equal opportunity in employment and the practice of basing all employment decisions on appropriate, job-related factors. The City will not discriminate on the basis of an individual's sex, race, color, religion, age, disability, sexual orientation, ethnicity or national origin. Furthermore, as stated in General Order 2.06, the Virginia Beach Police Department will not tolerate or condone discrimination or harassment of any employee by any other person with whom that individual comes in contact as part of their work environment. No employee will be the target of unwelcome discrimination or harassment, either verbal, written, or physical. Any activity of this type will be treated as misconduct and appropriate disciplinary sanctions will be imposed, up to and including dismissal. Both the City and the Virginia Beach Police Department espouse the organizational value of respect. This principle is central to the theme of our EEO policy statements. Similarly, we recognize the value and benefit of hiring and retaining a workforce that more closely mirrors the demographics of our community. We are committed to promoting the goal of diversity at all levels of the workforce. We will continue to administer an aggressive recruitment program and to pursue innovative methods for encouraging a more diverse workforce.

The Virginia Beach Police Department is proud to be accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA). As of November 1, 2010, budgeted positions include 806 sworn police personnel, assigned to four precincts as well as Special Operations (marine, aviation, canine, mounted, motorcycle, and selective enforcement units), Special Investigations, Detective Bureau, Internal Affairs/Accreditation, Crime Prevention and Professional Development and Training. Six hundred seventy-six (676) positions are allocated to the non-supervisory levels (recruit, officer and master police officer); eighty-seven (87) budgeted positions and two (2) authorized overhires at the police sergeant level; twenty-six (26) police lieutenants; eleven (11) police captains; three (3) deputy police chiefs; and one police chief. Additional budgeted positions include twenty-five (25) Animal Control Officers and Supervisors, eighteen (18) Forensic Services Technicians, Specialists and Supervisors, twenty-four (24) Precinct Desk Officers and one hundred (100) additional civilian positions, primarily assigned to the Support Division and as administrative support for the other commands. In other words, there are a total of 973 budgeted, full-time positions and 23.66 full-time equivalent budgeted, part-time positions within the Virginia Beach Police Department.

Note: Chief Jacocks retired June 30, 2010 and Deputy Chief Jim Cervera was appointed to Police Chief effective September 1, 2010. Chief Cervera's reorganization became effective November 1, 2010, reclassifying a captain position to the deputy chief level to afford the department more

opportunity to promote community relations and programming. Also, ten police officer positions were cut from the budget effective July 1, 2010. One civilian position was also cut from the budget (Office Assistant II in Special Investigations) and another civilian position (administrative assistant assigned to the Detective Bureau) is on loan from the Office of the Commonwealth's Attorney.

The Police Department's organizational chart is found at Appendix A. A description of the department's sixteen organizational units follows:

Animal Control (09112):

While the primary responsibility of Animal Control is the enforcement of state domestic animal laws and animal-related city ordinances, the bureau also takes an active role in the community through educational and volunteer programs and by placing homeless animals into new homes. The office and kennel are open to the public for visits, adoptions, reclaiming animals and other business operations seven days a week. Animal control officers are on patrol daily from 0630 to midnight, and an officer is available on callback duty during the overnight hours. In response to citizen concerns, the unit's focus has been on transitioning to a more animal friendly operation. During 2010 the shelter and the enforcement unit became two separate entities. The groundbreaking for the new animal shelter will occur in December 2010 with its grand opening expected in January 2012.

Crime Prevention (09016):

With a focus on reducing crime through education, the Crime Prevention unit coordinates various programs including Neighborhood Watch, home/business/church security assessments, school safety audits, and school programs such as "Aggressors, Victims and Bystanders," "Options, Choices and Consequences," "Every 15 Minutes" and "Class Action."

Director's Office (09010):

This unit includes the Chief of Police, administrative staff, the Internal Affairs/Accreditation Office, and Media and Public Relations staff with a mission of providing direction and leadership, while maintaining and increasing the integrity of the department.

False Alarms (09012):

With the official establishment of the program January 1, 2009, this unit is responsible for registering all alarm users and tracking and fining excessive alarm abusers.

Investigative (09028):

This budget unit is comprised of the Detective Bureau with units specializing in the following areas: domestic violence, economic crime, property crime, special victims, crime analysis, pawn, Crime Solvers, auto theft, homicide, and robbery. The forensic services unit is also included in the Investigative budget unit and is responsible for retrieving/processing crime scene evidence, performing latent fingerprint examination and conducting photograph/video analysis.

Professional Development and Training (09015):

Operating the Virginia Beach Law Enforcement Training facility (LETA), this unit provides all levels of police training, including basic recruit, in-service and specialty classes. Additional responsibilities include coordinating the department's career development and police officer training programs as well as coordinating recruitment and selection for the position of police officer.

Red Light Camera Program (09021):

The personnel assigned to this unit support the PHOTOSafe Red Light Enforcement Program, including reviewing/certifying PHOTOSafe (photo enforcement) violations generated from twenty operation cameras, providing court testimony, maintaining related records and responding to citizen inquiries.

Special Investigations (09029):

Areas of focus for this budget unit include investigating crimes involving narcotics, vice, gangs, the diversion of prescription drugs, computer crimes and organized criminal activities and collecting and disseminating criminal intelligence data.

Special Operations Specialty Units (09018, 09019, 09024, 09025):

These budget units represent the aviation, canine, marine patrol and mounted patrol specialty assignments within the Special Operations command. Other units assigned to Special Operations, such as the bomb squad, motorcycles, selective enforcement and Special Weapons and Tactics (SWAT) team are included in the Uniform Patrol budget unit. The focus of Special Operations is to support the Operations and Investigative Divisions by providing focused patrol techniques and tactics.

Support (09017):

Providing administrative and support services to the department, other City agencies and the public, the Support Division consists of the Office of Planning and Analysis, the Records Unit, Logistical Support Unit, and the Payroll Unit.

Uniform Patrol (09020, 09026, 09951):

These budget units encompass the personnel assigned to all four precincts, some units within Special Operations, the School Resource Officer program and grant-funded police officer positions.

The following pages are divided into two sections. The first section, entitled “Commitment to Race, National Origin and Gender” provides an assessment of our department’s current reality as of December 23, 2009 and provides statistical information about our department’s workforce. The next section, entitled “Commitment to Diversity and Inclusion” includes continued commitment to race, national origin and gender as well as all aspects of diversity. It provides information about our department’s current reality in terms of policies, practices and programs and includes a summary of 2009 accomplishments/best practices as well as future initiatives/action plans.

Commitment to Race, National Origin and Gender

Race/National Origin Categories:

In early 2009, all department members were given the opportunity through a survey to change their race/national origin category, if desired, to more closely match the newly expanded set of categories. Specifically, the race category of Asian and Native Hawaiian/Pacific Islander was split into two separate categories and a new category, Two or More Races was added. The City of Virginia Beach maintains a database of race/national origin and gender categories for all members in order to meet reporting requirements of the DOJ and the EEOC and for other

periodic statistical reports. The reports include only the number of members associated with a race/national origin or gender category and does not include member names.

The following is a complete listing of the race/national origin categories and their definitions currently maintained by the City of Virginia Beach:

American Indian or Alaska Native	A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.
Black or African American (not of Hispanic Origin)	A person having origins in any of the Black racial groups of Africa.
Hispanic or Latino	A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic or Latino".
Native Hawaiian or Other Pacific Islander	A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
White (not of Hispanic Origin)	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Two or More Races	A person having origins in two or more minority race categories above, not Hispanic or Latino.

EEO Job Categories:

Based on the guidelines established by the Equal Employment Opportunity Commission (EEOC), all job titles for the City of Virginia Beach are assigned to a specific EEO job category. The EEO job categories are defined as follows:

Officials and Managers	Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district, or area basis. Includes: Department Directors, and first line administrators under elected officials and in umbrella departments.
Professionals	Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes human resources and labor relations workers, registered nurses, dietitians, lawyers,

	system analysts, accountants, engineers, planners, captains, lieutenants, management analysts, surveyors and mapping scientists, and kindred workers.
Technicians	Occupations which require a combination of basic and scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers, drafters, survey and mapping technicians, licensed practical nurses, investigators, radio operators, technical illustrators, highway technicians, technicians (electronic, physical sciences), sergeants, inspectors, and kindred workers.
Protective Services	Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: patrol officers, firefighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, game and fish wardens, park rangers (except maintenance), 911 operators, harbor patrol officers, and kindred workers.
Administrative Support	Occupations in which workers are responsible for internal and external communications, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and kindred workers.
Skilled Craft	Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience through apprenticeship or other formal training programs. Includes: Mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors, typesetters, water and sewage treatment plant operators, and kindred workers. <i>Note: There are no Skilled Craft workers in the Police Department.</i>
Service Maintenance	Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: truck drivers, bus drivers, garage laborers, custodial employees, gardeners and grounds keepers, construction laborers, cooks, craft apprentices/trainees/helpers, and kindred workers.

Relevant Labor Market (RLM):

The RLM reflects that portion of the labor force within the job recruitment area(s) for the City of Virginia Beach identified as possessing the requisite knowledge, skills and abilities for job placement. Following are the RLMs used for each EEO Job Category:

Officials/Administrators	National
Professionals	State
Technicians	Metropolitan Statistical Area (MSA)*
Protective Services/Sworn	State
Protective Services/Nonsworn	State
Administrative Support	MSA
Skilled Craft	MSA

Service Maintenance

MSA

*The MSA for our area is the Virginia Beach, Norfolk, Newport News, VA-NC MSA established by the 2000 US Census Bureau.

Additionally, non-ranking sworn members are analyzed against the Civilian Labor Force/HS thru Associate Degree, Ages 20-34 census data available for the state as well as our MSA. This demographic represents the most common attributes of entry level police officer candidates.

Our Current Reality

Please refer to Appendixes B, C and D for detailed representations of the make-up of the Department of Police as of December 23, 2009. Appendix B, Job Classification Listing, provides a representation of all filled positions for full and part time employee job titles in their respective EEO Job Categories and includes race, national origin and gender statistics.

Appendix C, Workforce by Budget Unit, represents all filled positions for full and part time employees by budget unit and includes race, national origin and gender statistics.

Appendix D, Workforce Utilization Analysis, represents all filled full time and part time employees by EEO job categories compared to the relevant labor market and includes race, national origin and gender statistics.

Analysis of Appendix D, Workforce Utilization Analysis:

Analysis is based on a threshold of underutilization of less than 3%. The categories of Native Hawaiian/Pacific Islander and Two or More Races are not impacted by underutilization as their availability rates in all EEO Job Categories are under 3%.

Officials and Administrators:

Overall utilization of females (0%) is below the availability rate of 38.1% and overall utilization of minorities (0%) is below the availability rate of 16.2%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- This EEO Job Category has only two White Males effective December 23, 2009. White Females, Black/African-American Females, Hispanic/Latino Males are underutilized in this EEO Job Category. (It is important to note that effective November 1, 2010 this category includes three White Males and one Black/African-American Male.)

Professionals:

Overall utilization of females (87.5%) is above the availability rate of 51.9% and overall utilization of minorities (0%) is below the availability rate of 19%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- White Males: -25.6% based on an availability rate of 38.1%.
- Black/African-American Males: -3.8% based on availability rate of 3.8%.
- Asian Males: -3.3% based on an availability rate of 3.3%.
- Black/African-American Females: -7.0% based on availability rate of 7%.

Technicians:

Overall utilization of females (72.2%) is above the availability rate of 53.1% and overall utilization of minorities (5.6%) is below the availability rate of 32.2%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- White Males: - 6.4% based on an availability rate of 34.2%.
- Black/African-American Males: -8.2% based on an availability rate of 8.2%.
- Black/African American Females: -12.1% based on an availability rate of 17.7%.

Administrative Support:

Overall utilization of females (97.2%) is above the availability rate of 71.5% and overall utilization of minorities (24.5%) is below the availability rate of 35.9%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- White Males: -16.5% based on an availability rate of 17.4%.
- Black/African-American Males: -6.8% based on an availability rate of 7.7%.
- Females are not underutilized in any of the race/national origin categories; however, the utilization of White Females (29.6%) is much higher than other race/national origin categories.

Service Maintenance:

Overall utilization of females (50.0%) is above the availability rate of 45.5% and overall utilization of minorities (14.0%) is below the availability rate of 47.6%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- Black/African-American Males: -17.0% based on an availability rate of 21.0%.
- Black/African-American Females: -13.4% based on an availability rate of 19.4%.

Protective Service/Nonsworn (Animal Control)

Overall utilization of females (47.1%) is below the availability rate of 71.5%; overall utilization of minorities (8.8%) is below the availability rate of 35.9%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- Black/African American Males: -4.8% based on an availability rate of 7.7%.
- Black/African American Females: -22.6% based on an availability rate of 22.6%.

Protective Service/Sworn Officials (All ranks)

Overall utilization of females (12.3%) is below the availability rate of 21.4%; overall utilization of

minorities (18.3%) is below the availability rate of 28.0%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- Black/African American males: -7.2% based on an availability rate of 16.0%.
- Black/African American females: -7.0% based on an availability rate of 7.8%.

Protective Service/Sworn Officials (Sergeant Rank and Above)

Overall utilization of females (6.1%) is below the availability rate of 21.4%; overall utilization of minorities (9.9%) is below the availability rate of 28.0%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- Black/African American Males: -9.9% based on an availability rate of 16.0%.
- White Females: -6.5% based on an availability rate of 12.6%.
- Black/African American Females: -7.8% based on an availability rate of 7.8%

Protective Service/Sworn: Nonranking Officers Compared to STATE Civilian Labor

Overall utilization of females (13.5%) is below the availability rate of 48.8%; overall utilization of minorities (20.0%) is below the availability rate of 32.2%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- White Females: -20.5% based on an availability rate of 31.8%.
- Black/African American Females: -11.3% based on an availability rate of 12.2%.

Protective Service/Sworn: Nonranking Officers Compared to MSA Civilian Labor

Overall utilization of females (13.5%) is below the availability rate of 51.5%; overall utilization of minorities (20.0%) is below the availability rate of 41.8%.

Race and Gender Underutilization Within Specific Race/National Origin Categories:

- Black/African American Males: -5.1% based on an availability rate of 14.4%.
- White Females: -17.1% based on an availability rate of 28.4%.
- Black/African American Females: -17.6% based on an availability rate of 18.5%

It is interesting to note that the census data for civilians with associate's degrees and ages 20-34 in our MSA includes a higher percentage of African-American Males than the same data for the state.

Summary of Workforce Utilization Analysis:

It has always been a goal of each department within the City of Virginia Beach to build a workforce that is more reflective of the community it serves; in other words, the goal is to attract and recruit more females and minority applicants to the City. With this in mind, Police recruiting efforts are focused on using recruiting sources and community outreach efforts to attract more female and minority applicants in filling vacancies. It is interesting to compare

progress over time, particularly in the sworn ranks, recognizing that annual attrition rates average 7-8% per year.

Female and Minority Sworn Staffing Trends, 2000 - 2010

	Female Officers	Minority Officers	Female Supv	Minority Supv	Total Sworn (Actual)
January 2000	71 (9.8%)	92 (12.7%)	6 (0.8%)	6 (0.8%)	723
January 06	92 (11.8%)	104 (13.4%)	6 (0.8%)	12 (1.5%)	778
November 06	97 (12.2%)	110 (13.8%)	7 (0.9%)	12 (1.5%)	796
November 07	94 (11.7%)	114 (14.2%)	6 (0.7%)	14 (1.7%)	803
January 09	90 (11.3%)	115 (14.5%)	7 (0.9%)	14 (1.8%)	792
December 09	87 (11.2%)	129 (16.6%)	8 (1.0%)	13 (1.7%)	775
November 2010	93 (12.0%)	128 (16.5%)	9 (1.2%)	12 (1.5%)	776

2009 Recruitment and Selection Results for the Department of Police:

Please refer to Appendix E, 2009 Annual Analysis of the Police Recruiting Program, for detailed information about the recruiting program for sworn personnel, including sample advertisements. The Police Department continues to engage in an aggressive recruiting program which includes partnerships with Norfolk State University, Virginia Wesleyan College, Elizabeth City State University, the Young Filipino Professional Association, the Navy Transition Assistance program and other entities as well as a significant web presence. In March 2009, Chief Jacocks signed a memorandum of agreement with the U.S. Army Recruiting Command and also the Army Reserves (Army Partnership for Youth Success or Army PaYS) which allows active military personnel to express interest in police employment. Police Department members participated in a total of 160 recruiting events during 2009.

In addition to hiring four certified officers in February 2009 and twenty-nine recruits for the August 2009 police academy class, 24 full-time and 17 part-time civilian positions were filled during the 2009 calendar year. All positions are advertised on the City's WAVE (online)